

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Brandon D. Sherr,

Plaintiff,

-against-

Board of Elections in the City of New York,

Defendant.

**USDC SDNY**  
**DOCUMENT**  
**ELECTRONICALLY FILED**  
**DOC #:** \_\_\_\_\_  
**DATE FILED:** 12/20/2023

1:23-cv-08693 (JLR) (SDA)

**ORDER**

**STEWART D. AARON, United States Magistrate Judge:**

Defendant's pending motion to dismiss having been referred to the undersigned for a Report and Recommendation (*see* Referral Order, ECF No. 24), the Court intends to consider together Defendant's motion to dismiss and Plaintiff's motion to certify a collective action.<sup>1</sup> *See, e.g., Uruga v. Amici 519 LLC*, No. 17-CV-03547 (ALC), 2018 WL 3579850, at \*1 (S.D.N.Y. July 25, 2018) (noting that motion to dismiss and motion for conditional certification were "more efficiently decided in one order" given overlapping arguments); *Deas v. Alba Carting & Demolition Inc.*, No. 17-CV-03947 (RA), 2018 WL 11409286, at \*1 (S.D.N.Y. Jan. 22, 2018) (deciding motions in single order); *Chen v. Major League Baseball*, 6 F. Supp. 3d 449, 451 (S.D.N.Y. 2014) (same), *aff'd sub nom. Chen v. Major League Baseball Properties, Inc.*, 798 F.3d 72 (2d Cir. 2015).

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<sup>1</sup> "Orders authorizing notice are often referred to as orders 'certifying' a collective action, even though the [Fair Labor Standards Act] does not contain a certification requirement." *Guillen v. Marshalls of MA, Inc.*, 750 F. Supp. 2d 469, 475 (S.D.N.Y. 2010).

Accordingly, it is hereby Ordered that, no later than January 2, 2024, the parties shall file a proposed briefing schedule for the remainder of the briefing on both motions or, if the parties cannot agree, their respective proposals regarding the briefing schedule.

**SO ORDERED.**

Dated: New York, New York  
December 20, 2023

A handwritten signature in black ink, reading "Stewart D. Aaron", written over a horizontal line.

STEWART D. AARON  
United States Magistrate Judge